

REMARKS

Claims 24-25, 28-37, and 40-45 remain in this application.

The claims as amended and pending describe a mobile fumigation system that requires the use of an ISO general purpose shipping container. The pending claims include the following elements:

- Fumigation chamber
 - Gas tight ISO general purpose shipping container
- Fumigation apparatus
 - Operatively coupled to the fumigation chamber
 - Inlet device
 - Extraction device
 - Absorption device

The use of an ISO general purpose shipping container in accordance with the claimed system provides several advantages as follows:

1. Standardized sizes are more efficient for large shipping yards.

All ISO general purpose shipping containers have the same size and dimensions. This allows for a single system that can be efficiently used in large shipping yards. Shipping containers can be quickly and easily coupled to the fumigation apparatus without requiring special adaptors or connectors.

2. Standardized sizes reduce release of toxic fumigant to the environment.

Since all ISO general purpose shipping containers have the same size and dimensions they can be easily and securely coupled to the fumigation apparatus so that toxic fumigant does not leak into the environment. Shipping containers do not need to be modified or adapted to be operatively coupled to the fumigation apparatus, which minimizes potential leaks of toxic fumigant.

Rejections under 35 USC 112

The rejection of claim 26 has been obviated as claim 26 has been cancelled.

German Patent No. 19950634 to Binder is not Prior Art.

The present application was originally filed in the U.S. as a 371 filing of PCT/AU00/00336. The PCT application was filed on April 19, 2000. The Binder reference was published May 17, 2001, which is after the PCT filing date. Hence, the Binder reference is not prior art and cannot be used to reject any pending claims under 35 USC 102(b).

Rejections under 35 USC 103

The cited references do not provide a prima facie case of obviousness and provide no teaching to combine the references.

A. The combination of Otsuki, Smithyman and Haraguchi does not provide a prima facie case of obviousness.

None of the cited references describes or suggests a mobile fumigation system that includes an ISO general purpose shipping container as claimed. Otsuki describes a van-type container and Smithyman and Haraguchi do not describe shipping containers at all. Van-type containers as described in Otsuki are very different than ISO general purpose containers and can not be substituted for ISO general purpose containers. Hence, Otsuki is not a proper starting point for an analysis of obviousness.


B. One of ordinary skill in the art would not combine the references.

The ability to fumigate with a toxic fumigant in a standard system as claimed provides advantages not described or suggested by the references. As indicated, the presently claimed system allows quick and efficient fumigation of containers while reducing potential loss of fumigant into the environment. Otsuki describe circulating non-toxic CO₂ into a van-type container. Otsuki is not at all concerned about the configuration of the container as loss of CO₂ into the environment is not a problem. Hence, Otsuki does not appreciate or suggest an ISO general purpose container because he does not need one. One of ordinary skill reading Otsuki would have no reason to look towards references (Smithyman and Haraguchi) that describe handling of toxic fumigants or look towards references that do not describe ISO general purpose containers.

Allowance of the pending claims is respectfully requested. The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

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